

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MARSHALLTOWN, IOWA, CHAPTER 70: GENERAL PROVISIONS TO PROVIDE REGULATIONS FOR AUTOMATED TRAFFIC ENFORCEMENT

WHEREAS, the City Council of the City of Marshalltown, Iowa established Chapter 70: General Provisions on August 14, 1950, to provide regulations for the administration and enforcement of traffic code; and

WHEREAS, on October 24, 2022, the City Council of the City of Marshalltown, Iowa authorized the Marshalltown Police Department to negotiate an agreement for Automated Traffic Enforcement; and

WHEREAS, the City of Marshalltown desires an amendment to the Code of Ordinances to adopt regulations for Automated Traffic Enforcement; and

WHEREAS, the City Council of the City of Marshalltown finds it is in the best interest of the City to amend Chapter 70: General Provisions of the City Code of Ordinances.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section 1. The Code of Ordinances is hereby amended by adopting the following sections:

§ 70.012 SCHEDULED FINES FOR VIOLATION OF CERTAIN PROVISIONS.

A) Violations of sections of this chapter specified in this section shall be scheduled violations, and the scheduled fine for each of those violations shall be as found in state law as it relates to city ordinances. The city has adopted the following ordinances, the violation of which may be considered a scheduled violation:

- 1) For excessive speed violations under Chapter 76, Schedule VIII, division (A) of this code of ordinances, and Automated Traffic Enforcement excessive speed violations under 70.072;

AUTOMATED TRAFFIC ENFORCEMENT (ATE)

§ 70.070 DEFINITIONS.

Automated Traffic Citation. Shall mean a notice of violation generated in connection with the automated traffic enforcement system.

Automated Traffic Enforcement Contractor. Shall mean the company or entity, if any, with which the City of Marshalltown contracts to provide equipment and/or services in connection with the Automated Traffic Enforcement System.

Automated Traffic Enforcement System. Shall mean an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic controller or police department employee to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control device or speed restriction.

Vehicle Owner. Shall mean the person or entity identified by the Iowa Department of Transportation or identified by any other state vehicle registration office, as the registered owner of a vehicle detected violating traffic law by failing to obey speed regulations within the City. Notwithstanding the foregoing, in the event the Iowa Department of Transportation or any other State vehicle registration office identifies a person or entity as the lessee of the vehicle, that lessee shall be the vehicle owner for purposes of this subsection. In the event, a state registration office does not specify whether a person or entity listed on the registration for the vehicle is the owner or the lessee of the vehicle, any person or entity listed on that vehicle registration may be deemed the vehicle owner and held jointly and respectively responsible for a violation of this section.

§ 70.071 GENERAL.

The City of Marshalltown, in accordance with its police powers, may deploy, erect or cause to be erected an automated traffic enforcement system for capturing images of motor vehicles that violate traffic laws by failing to obey speed regulations within the City. The system may be managed by a private contractor that owns and operates the requisite equipment. The Police Chief shall retain supervisory control over the system and, with prior City Council approval, shall determine the exact deployment of the system components throughout the City. The contractor shall provide photographic and/or video images of any potential violations to the police department to review and, in the event the police department determines a vehicle was operated in violation of the City's traffic code ordinances, the police department shall direct that a notice of Automated Traffic Citation be issued to the vehicle owner in accordance with the provisions of this Section.

§ 70.072 VEHICLE OWNER SUBJECT TO CIVIL FINE FOR AUTOMATED TRAFFIC CITATIONS.

- A) If a vehicle is detected traveling at a speed above the posted limit, the Vehicle Owner shall be subject to a civil fine as scheduled below in subsection 70.074.
- B) Exemptions from this section are outlined in subsection 70.077, and shall not be considered violations for purposes of the Automated Traffic Enforcement System.
- C) In no event will an Automated Traffic Citation be sent or reported to the Iowa Department of Transportation or a similar department of any other state for the purpose of being added to the Vehicle Owner's driving record.

§ 70.073 NOTICE OF AUTOMATED TRAFFIC CITATION.

- A) Upon a Marshalltown Police Officer's determination that the Automated Traffic Enforcement System has detected a violation described in subsection 70.072, a notice of an Automated Traffic Citation will be mailed to the Vehicle Owner for each such violation recorded by the Automated Traffic Enforcement System. The Automated Traffic Enforcement Contractor shall mail the notice within 10 days of receiving information about the Vehicle Owner. The notice shall include the name and address of the Vehicle Owner; the vehicle make if available and readily discernable; the vehicle registration number; the violation alleged; the time, date, and location of the alleged violation; the applicable fine; information as to how the Automated Traffic Citation may be challenged; and that the basis of the notice is a photographic or video record generated by an Automated Traffic Enforcement System.

§ 70.074 FINES.

A) Any violation of subsection 70.072 above shall be subject to a civil fine as scheduled in the table below, and the fine for any violation committed in a designated construction zone as provided by the Code of Iowa shall be doubled with a maximum fine of \$750, as scheduled below, subject in any event to the limit on fines sought in municipal infractions.

| Speed Over the Limit | Civil Fine | Construction Zone Fine |
|-----------------------------|-------------------|-------------------------------|
| 11 through 20 MPH | \$100 | \$200 |
| 21 through 25 MPH | \$150 | \$300 |
| 26 through 30 MPH | \$250 | \$500 |
| Over 30 MPH | \$400 | \$750 |

§ 70.075 CHALLENGING AN AUTOMATED TRAFFIC CITATION.

Within 30 days from the date appearing at the top of a notice of Automated Traffic Citation sent to the Vehicle Owner, the Vehicle Owner may either pay the fee associated with the citation or challenge the citation by submitting a written challenge to the citation or requesting that a municipal infraction be filed pursuant to Iowa Code §364.22, as amended. Any such written challenge or request must be on a form specified by and available from the City as indicated on the notice, and be sent to the City according to the instructions on the form. Upon receipt of a written challenge, a Marshalltown Police Officer shall determine whether the citation should be rescinded. Within 15 days after the City receives such a challenge, the City shall notify the Vehicle Owner whether the challenge to the Automated Traffic Citation is granted, in which case, the citation shall be rescinded. Otherwise, the citation shall stand. Thereafter, the City may seek voluntary payment and/or file the citation as a municipal infraction against the Vehicle Owner.

§ 70.076 FAILURE TO TIMELY PAY OR CHALLENGE AUTOMATED TRAFFIC CITATION.

If the recipient of an Automated Traffic Citation does not either pay the fine by the due date stated on the original citation or successfully challenge the citation as provided herein above, the City may conduct collection procedures in accordance with all applicable laws. The City holds the right to file a municipal infraction against the Vehicle Owner in accordance with the City of Marshalltown Code Chapter 70 and §364.22 of the Code of Iowa as amended, seeking judgment for the applicable civil fine provided in subsections 70.074 (B) and 70.074 (C) above, plus State mandated filing fee and court costs. If a judgment is entered for the City in the municipal infraction proceeding, the City may, subject to applicable law, pursue enforcement of the judgment together with interest as permitted by law.

§ 70.077 EXEMPTIONS FROM SECTION 70.072.

The following shall not be considered violations for purposes of the Automated Traffic Enforcement System.

- A) The operator of the vehicle in question was issued a uniform traffic citation for the violation in question pursuant to Marshalltown Municipal Code Chapter 76 or Chapter 321 of the Code of Iowa.
- B) The violation occurred at any time after the vehicle in question or its State registration plates were reported to a law enforcement agency as having been stolen, provided, however, the

vehicle or its plates had not been recovered by the Vehicle Owner at the time of the alleged violation.

- C) The vehicle in question was an authorized emergency vehicle.
- D) The foregoing list of exemptions from this section shall not be construed as limiting the defenses available to challenge an Automated Traffic Citation or defend a municipal infraction.

Section 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 4. WHEN EFFECTIVE. This ordinance shall be in full force and effect after its passage and publication as required by law.

Passed this ____ day of _____ 2022, and signed this ____ day of _____, 2022.

CITY OF MARSHALLTOWN, IOWA

Joel Greer, Mayor

ATTEST:

Alicia Hunter, City Clerk

I, Alicia Hunter, City Clerk of the City of Marshalltown, Iowa, do hereby certify that the foregoing ORDINANCE was passed and approved by the City Council of the City of Marshalltown, Iowa, on the ____ day of _____, 2022, and was published in the Marshalltown Times-Republican, a newspaper of general circulation in the City of Marshalltown, Iowa, on the ____ day of _____, 2022.

Alicia Hunter, City Clerk